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NEW YORK CITY
MAYOR'S OFFICE OF CONTRACT SERVICES (MOCS)
PROCUREMENT POLICY BOARD (PPB)
PUBLIC HEARING

-----X

22 Reade Street
New York, New York

November 12, 2019
12:10 p.m.

Reported by:
Elbia Merino

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A P P E A R A N C E S:

David Garfinkel, The Clerk

PROCUREMENT POLICY BOARD

Lisa Flores

Sergio Paneque

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THE CLERK: Good afternoon,
everyone. My name is David Garfinkel.
Today, we are holding a public hearing
concerning the proposed rules by the
Procurement Policy Board. We will now
come to order.

The hearing today will provide the
public an opportunity to comment on
four proposed amendments to Chapters 1
and 3 of Title 9 of the Rules of the
City of New York, entitled "The
Procurement Policy Board Rules."

The Procurement Policy Board wants
to be sure that anyone who wishes to
be heard has an opportunity to do so.
I will be reading each item
individually and will ask after
reading an individual item if anyone
wishes to testify in regard to that
item.

All persons who wish to speak must
fill out a request slip which was
passed around earlier. And if you
have not previously handed it to me,

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when you do plan to speak, please bring up a copy. And Angie has extra copies.

When you testify, please first state your name and affiliation, if any. You may also submit written testimony to me which will be made part of the record. Any written submissions must be given to me before the close of the public hearing today.

The first item today, the PPB has proposed to amend Chapter 1 of Title 9 of the Rules of the City of New York to revise the definition of M/WBE and add a new definition of State-certified M/WBE.

Does anyone wish to testify?

(No response.)

THE CLERK: Thank you.

Item number two, the PPB has proposed to amend Chapter 2 of Title 9 of the Rules of the City of New York to apply the best value competitive sealed bid price preference mechanism

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to City and State certified M/WBEs and allow adjustment to the price preference with approval of the Citywide Chief Procurement Officer, also known as the CCPO.

Does anyone wish to testify on this item?

(No response.)

AUDIENCE MEMBER: Is that the five percent change?

THE CLERK: No. This is purely competitive sealed bid. Thank you.

Item number three, the PPB has proposed to amend Chapter 3 of Title 9 of the Rules of the City of New York to apply the best value competitive sealed proposal quantitative preferences to both City and State-certified M/WBEs and mandates its usage for professional and construction-related consulting services. Additionally, this amendment allows adjustment to quantitative preference with CCPO

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approval.

I will call out those who have handed in request sheets that specify they wish to testify on this rule specifically.

First person to speak on this is Peter Chynoweth, Senior Vice President of CMA.

MR. CHYNOWETH: No, I wasn't going to testify. Did I check that?

THE CLERK: Yes.

MR. CHYNOWETH: No, I'm not going to.

THE CLERK: Okay.

Ken Fisher of the Municipal Affairs Counsel.

MR. FISHER: Good afternoon. Just for clarity of the record, my name is Ken Fisher. I'm from the Law Firm of Cozen O'Connor. I represent the American Council of Engineering Companies of New York in opposition for the proposed amendment with respect to the five percent technical

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rating increase for certified firms,
which we believe would be contrary to
quality-based selection system that
has served the City of New York well
for the last ten years.

I'm going to summarize the written
testimony. We have comments for you
that elaborates on the points that I'm
about to make.

First of all, ACEC believes that
this proposal is premature at best.
And at worst, lacks a sound factual
basis, is poor public policy and it's
contrary to the best interest of the
City of New York, which has used QBS
successfully for the last ten years.

After a demonstration project
conducted by the Mayor's Office of
Contract Services found that it
increased participation, and therefore
competition, particularly among firms
that had not done business with the
City of New York before under the
previous price per technical point

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system, and that it encouraged
designed excellence.

Unfortunately, this initiative,
however well-meaning it may be, does
the opposite. We'll note that it was
not on the PPB's regulatory agenda as
would otherwise be the case under CAPA
in the charter.

We also note that it was not
discussed with any of the stakeholders
who are affected with respect to
construction-related design services,
which is our specific focus.

What was on the public policy
agenda this year was the City's
disparity study, long in the making.
Which did not contain a single word
suggesting that there was bias in the
technical evaluation of
construction-related services, nor
that that was something that needed to
be adjusted or remedied.

It was not discussed at any of the
public hearings, certainly not the

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ones that I attended, of the Council contracts committee, which considered the disparity report and then adopted Local Law 174 to adjust the goals that the City has been using to encourage diversity and procurement.

So we don't have a study that indicates this. There's been no, at least public, explanation as to why this is an appropriate remedy and we believe that it will have unintended consequences. And I'm going to share with you just two.

One is that potentially for large contracts where there are a very small number of certified firms, you can have one or more of that small number of firms win multiple RFPs because of receiving a technical point difference. Even if the reason that their proposal was not ranked first in the first place was because of a lack of managerial capacity, which is often one of the criteria for the very

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largest jobs.

The other example that -- I think these are the kinds of things that normally would get talked out with the industry in advance -- is that if a certified firm was the fifty-one percent stakeholder and leader of a newly-formed joint venture entity, that entity would not be able to receive the five percent bonus because it itself was not going to be a certified firm.

It would have to go through a process that would be impossible to complete during a difficult RFP process. That means that the only way that that majority and minority firm could collaborate would be for the majority firm to be a subcontractor.

Which may be a perfectly appropriate solution in some cases, but I don't believe that that was the intention, to mandate that outcome by writing a rule in which -- in a manner

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in which you did.

So given the fact that we don't believe this proposal has been fully vetted, but very least we think you should defer voting on it. But we also think it's misplaced.

Quality-based selection is used by forty-four states, the federal government, the State of New York, and the City of New York adopted it ten years ago because it got a better result. Design excellence. The best thinking from the best teams available to the City of New York.

This would undercut that. We think that that's a mistake as a matter of public policy. And we think that the board should reconsider this amendment. I'll be happy to answer any questions.

THE CLERK: No questions. If you could leave a copy of the written testimony or comments on the table, it would be appreciated.

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MR. FISHER: Thank you. Just one thing I forgot to mention.

ACEC, for those who are not familiar, is the trade association of professional engineering companies. Twenty-five percent of ACEC's members are certified New York City M/WBE firms. They strongly support the increase of diversity in the contracting process, not this way.

THE CLERK: Sara Hekmaty of RK Software. Sorry if I mispronounce names.

MS. HEKMATY: That's okay. Hi. I'm Sara Hekmaty from RK Software. That's a really tough act to follow.

But I represent a minority-owned business enterprise in New York. I just wanted to add my voice in support of this rule amendment; the reason, that amending the best value competitive sealed provisions for professional services is relevant to us.

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We are an IT company. We do provide professional services. When we can see the evaluation factors visibly and, you know, we can modify our proposals to score the best points, like -- then we are not just bidding blindly on these procurements.

And it really helps us competitively. And increasing that as well to five hundred thousand, of course, we are in support of that. I'm just adding my voice there. And I'd like to hear from everyone else, too.

Thank you for having this and inviting us.

THE CLERK: Thank you.
Sanjay Ghosh of RK Software.

MS. GHOSH: I have nothing to add to that. Thank you.

THE CLERK: Does anyone else wish to testify on this specific rule change? Mahendra Patel for the Alliance.

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MR. PATEL: Hi. My name is Mahendra Patel, and I'm president of Alliance of New York Asian Architects and Engineers. I'm testifying for the members of Alliance of New York Asian Architects and Engineers.

The Alliance, to express our support for the proposed procurement rule changes relating to minority and women-owned business enterprise, M/WBE program. The Alliance is comprised of more than fifty Asian American-owned architecture and engineering firms, which collectively provide a full spectrum of engineering and architectural services and employs more than a thousand of employees across the State of New York.

The Alliance has been active in supporting the efforts by the City and State over the past few years to update and expand the M/WBE program. And we believe that the proposed changes would be beneficial to

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businesses participating in the program.

By providing the five percent point preference to the construction-related consultant services providers, there will be a possibility of opening new opportunities to New York City businesses like ours, that have faced a disadvantage in competing for these types of contracts.

The five percent point preference also allows qualified M/WBE firms the opportunity to compete as the prime contractors, which is the ultimate goal of this program.

Since many firms haven't had the opportunity in the past, and therefore may not be able to show an abundance of completed past projects, the five-percent preference would provide qualified firms with the prime opportunities at City agencies.

We encourage the Procurement

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Policy Board to approve the proposed changes because we believe it will help advance New York City's M/WBE program and in the process, advance the businesses that participate.

The proposed changes would provide our firms with new opportunities, and since we believe in hiring a diverse workforce, it will provide new opportunities to the many people who work with and for us.

I would like to add, I'm also a member of ACEC. And as we see that testifying that twenty-five percent M/WBE program participants have agreed opposed onto the things as given the testimony by ACEC, I haven't seen any survey or anything from the ACEC regarding these things and I'm not sure how that statement was given by the -- for the ACEC. I would like to thank you for the opportunity for the consideration and hearing us, too.
Thank you.

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Any questions?

THE CLERK: No questions. If you could leave a copy on the table, we'd appreciate it.

Anil Dayaramani of Alliance.

MR. DAYARAMANI: My name is Anil Dayaramani. I'm the Vice President of SMARTEC Architecture and Engineering. I'm a licensed professional engineer. And my partner, Sayuja Malhotra, is a licensed architect. We started this firm a few years ago. I'm with -- I'm testifying for the New York Alliance. Similar as Mahendra. But I will repeat the same things because what I have to say is roughly the same.

I think the important thing that I'm -- we are in favor of it. And I can give you this much testimony as living proof. The DDC, New York City DDC, began a microfirm on-call recently, and so the given opportunity to people less than five employees to bid on this project, we were

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successful and we won it. I've been working for ourselves since then.

So as a prime consultant, we are making significant roads. We have opportunities to work as a sub-consultant as well. But being a minority/woman-owned business, the opportunity as a prime has been really the -- the push, the shot in the arm we needed to survive for these past three years.

So these goals that we are setting, I can only tell you if an M/WBE gets an opportunity to be a prime consultant and they get a preference to continue in that direction, it's a far better way to go than being a sub-consultant.

If you're a sub-consultant, in some cases, I'm waiting for up to eight months to get paid. Cash -- having cash and learning all these things about running a business, there's a lot of logistical things you

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have to deal with in addition to running your own job or working on your own jobs.

So this -- this five percent that you are allocating, I think it's a shot in the arm that affords opportunities that we would never be able to achieve previously or have never been able to achieve previously.

Cash is king in this business. We are not a high-profit, sexy dot com industry. We are engineers. There's nothing, you know, super cutting-edge about it. We have innovations in design and things like that. But the thing here is that this really helps us propel ourselves into the next -- to a level where we can compete. And I'm all in favor of it.

Again, I've worked as a sub-consultant and a prime consultant. I can't tell you how much of a help it is to be a prime consultant and be able to provide these services.

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So I think that's about everything. I'm in favor of it. Any questions?

THE CLERK: Thank you.

Does anyone else wish to speak, provide testimony specifically on this rule? If you did not previously hand in a comment sheet, just bring it up and then approach the podium. Thank you.

MS. HARRIS: Good morning. I'm Julie Harris, and I'm representing the Council of Black Architecture and Engineering Firms. And I want to stand solidly behind what the Alliance said and I'm testifying for this rule.

One of the things that we tend to leave out when we look at the opportunity to prime is actually workforce development. We always talk about the workforce development as it relates to the trades and construction.

But when you look at the

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professional workforce development,
engineers want to engineer, and
architects want to architect. And
what subcontracting does to us is, it
puts us in a position where we mostly
get dock control and work that's
really not related to engineering that
we want to do.

And being able to be a prime helps
us with all of the qualifications that
when you look at the RFPs, they want
you to have so many years of leading
projects and things like that, and
those very technical experiences that
we are not getting as subcontractors.

And so, that's why it's important
that we get a chance to prime our
work, so that we can grow our
engineers and architects in our
communities that look like us. And
right now, we're having an exodus of
minority and women engineers.

Because one, they don't get to do
the work they go to school to do. We

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do the same -- we go to the same schools, we take the same courses, we get the same licenses and certifications. Yet, all of a sudden, we are looked at as we don't have the capacity to do work or the skills to do the work.

And so, this will give us the opportunity to do what we want to do; to engineer and to design. And to do the higher-level work that we are capable of doing. But as we are maligned to subcontracting positions, that doesn't happen.

Thank you.

THE CLERK: Thank you.

MR. LINARES: Good morning. Thank you for this opportunity. My name is Jesus Linares. I went to Nazareth High School, so Jesus of Nazareth is speaking now. It's a joke I use all the time.

Anyway, I'm the Chairman of The National Hispanic Business Group. I

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also own a commercial moving company called Business Relocation Services. We've been doing the moving services contract for DCAS for the last five years. We came about this, we were the second lowest bidder at that time. Whoever won it was not capable and they just rebid it again.

And the issue that I'm going to put forth is that because they rebid it again and the decision hasn't been made, we couldn't get a purchase order for the move of the Department of Transportation. So they gave the contract to a moving consultant who gave the contract to a non-M/WBE moving services contract.

And when I reached out to the moving consultant, who is a certified woman-owned business, I didn't get a response. That's why I'm all for the increase for the one-fifty cap to the 500,000-dollar cap. I don't know what transpired. I just figured that --

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The National Hispanic Business Group is in favor of all the bullet points that have been put forth on the new -- newish thing.

Thank you.

THE CLERK: Does anyone else have testimony regarding the specific rule which will make amendments to competitive sealed proposals?

MR. BRYANT: Hello. My name is Seth Bryant. I'm a managing partner of a law firm, Bryant Rabbino, LLP. Bryant Rabbino is a certified minority-owned business in Garden City and New York State. I'm also a member of the Mayor's M/WBE Advisory Council.

I'm here in support of the amendment as it relates to best value procurements to cause them to be on par with the State. During my tenure as a lawyer over twenty-three years and with a specific focus on M/WBE issues over the last ten, fifteen years, there have been situations or

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circumstances where M/WBE businesses have had many changes to the laws that have been beneficial to them.

One issue that has kind of hurt M/WBEs is the disconnect between the City and the State in terms of how the M/WBE programs work. So on the State level, there's best value of procurement. And on the City level, at some level, there have not been the same best value performance and some procurements have been on a lowest-cost basis.

And so as the proposal is intended to streamline and kind of harmonize the State and the City's procurement measures, it benefits cities that are located in New York City that are State certified and City certified to have a common set of rules to aim at, as opposed to having different regimes for the State and the City.

So I'm in favor of the proposal in terms of the best value change. Thank

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you.

THE CLERK: Thank you.

MR. ANAVITATE: Hi. My name is Nestor Anavitata from Bates One Security.

I'm an M/WBE certified business owner. I run a security company. The M/WBE program on the State side and City side, being City certified is much easier than getting State certified and less confusing. But I also was one of the original people that went up to Albany, trying to get the 150,000 -- the scheduling fund increased, about a couple years ago.

I understand that that's passed and we are up to \$150,000.00, but increasing it to half a million is a great thing for the City. It will help small minority businesses to grow quicker. But the problem is, you have other companies are bigger; like Allied Barton, Securitas, FJC, they have a master contract with the City

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and now locked us all out. All the MBE small security company out and they can still bid on that half a million dollars.

My proposal is that if you are making more than ten million dollars a year, you should not be able or allowed to bid on anything under \$500,000.00 whatsoever, whatsoever, in any industry; engineers, everyone.

It locks us out by them -- allowing them to still bid. And that's my concern and that's why I'm here. Even though I'm not an engineer or architect, we all have the same problems with big companies, M/WBE subcontractors and what have you, does not work. Thank you.

THE CLERK: Thank you. Does anyone else wish to testify regarding the changes to 3-03?

MR. BOYLAN: Thank you. My name is Christopher Boylan. I'm with the General Contractors Association of New

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York. We represent the heavy civil construction industry in New York. We are the folks who build the roads, bridges, transit and rail systems, and the parks, and the foundations.

Our workforce is made up of about 25,000 represented workers in the City. And although folks don't focus on this, our members who are large construction firms, all began as small largely family-owned businesses themselves. And their business model is predicated on self-performing the work they do. They understand what it means to start small and to grow.

That said, our members also understand the difficulties that small businesses today have of getting a foothold in the industry. And in that sense, they support the M/WBE goals that we have talked about here earlier. But I will admit that in hearing some of the other testimony from folks, it is a confusing array of

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different requirements depending on City contracts, state-funded contracts or federal contracts. And I don't think this particular rule helps clarify things, but changes the dynamics once again.

Our biggest concern here is that the PPB rule places no limit on the size of the best value procurements for which a price preference or technical credit would apply. So what we have is, in the context of Executive Law 15A, which increased the personal net worth threshold four hundred percent to fifteen million dollars, and the business size limitation of up to three hundred employees. A State certified M/WBE could be a relatively large company. In fact, they can be larger than probably many of the members that are members of the GCA.

So with no dollar cap on the size of procurements, M/WBE firms that are

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now fully able to compete in the marketplace, we are not talking about all the smaller firms that we talked about today, will be provided with what amounts to an unfair price preference or bidding advantage over significantly smaller but qualified competitors.

This also gets a little bit more complicated. In our business, you get into the world of design build where technical evaluations are used to select the best technically qualified firms, to encourage technical innovation, to lower the costs and to approve schedules.

So I think while the sheet says, "support" or "opposed," I think our preference would be to discuss with you before you would adopt such a final rule, a way that achieves the goals that I've heard from other folks here today, but also ensures that there is a -- an appropriate level of

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net worth for those folks who are actually bidding.

And we look forward to working with you. I will leave our formal remarks for the committee. Thank you.

THE CLERK: Does anyone else wish to testify on the rule change?

MS. BECKLES: Hello. Good morning. My name is Kyana Beckles. My company is Leverage Assessments. We design preemployment selection testing tools. So we intersect in the construction committee with background tests and drug screens. We also have a partner firm that provides construction services.

Any advantage that small firms can get -- I'm also M/WBE certified with the City. Of course our State certification is pending; as is everyone else's.

Any advantage that we can get to be prime competitors on these large contracts is going to help us. The

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whole idea of being a sub is just --
you know, the large companies, they're
not really looking for a call from
you. You know what I mean?

I call -- I called a guy the other
day, who again has that master
services contract, and his reply was,
"You are a competitor. I don't want
to hear from you." I mean, the phone
call was hostile. I was just asking
for a meeting. It turned into a
hostile engagement.

I think what a lot of the large
firms do is if there's an M/WBE goal
in it, they know that any government
contract is going to have some amount
of printing services. So they just
find a print company and they sub that
set-aside portion and they are done.
They're not looking for your
expertise. They're not looking for
you creativity. They're not looking
for your experience.

The other piece of that is that

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they're looking to give away as minimal work as possible. So to your point, you know, those large bids is the difference between competing for millions and billions of dollars and maybe getting a piece, which is like a couple grand.

That's not really going to help you grow. That's not really going to help you scale and get to the next level where you can really start to compete with these guys. So we're just always going to be in that loop where we always end up, at the bottom, feeding from the bottom, basically. So --

THE CLERK: Thank you. Sir?

MR. SHENOY: My name is Ravi Shenoy. I'm president of Shenoy Engineering. Shenoy Engineering provides mechanical, electrical, plumbing and fire protection design services, consulting services in New York City.

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We understand that M/WBE program helps disadvantaged firms as a whole to increase their ability to do business within the New York City and the State marketplace. We have been active in supporting the efforts of the City and State over the last few years to address the M/WBE programs. And we believe the proposed changes will be greatly beneficial to businesses participating in this program.

So I've been in business since 2003. And the prior local laws had greatly impacted in the growth of our business. We have a -- in the recent amendment to the Local Law 1 along with this program -- this changes to the group, changes to the program, greatly helped us to do growth and move forward.

With the ability to compete with a prime consultant, M/WBE firms, we are able to gain contracting experiences

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to -- previously, we were not able to get. We have tried in the past with several City agencies to work with a prime, but we hardly got any such opportunity. And we hope this program will be greatly beneficial to that venture in our going into the prime.

So we thank you for this opportunity. And if you have any questions, I'm more than happy to answer.

THE CLERK: Thank you.

Does anyone else wish to testify regarding this item?

MR. SCARLETT: Yes. Good afternoon, everyone. I'm Robert Scarlett. I'm the owner of Scarlett Consulting Engineering Commission. M/WBE certified with the City pretty quickly. State recertification pending.

So the goal of the M/WBE program is -- or any small business program is to facilitate faster growth of

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businesses for, you know, small
business people or entrepreneurs.

Main issues that I have been -- I
have had my company since 2015. Of
course, there's a growth curve.
Totally accept that. The main thing
I'm encountering is that a procurement
comes out from the -- from any of the
agencies, I think they're being run
through DCAS.

Procurement comes out and how it's
written, it's almost as if it's
literally excluding a small firm
because they tell you your experience.
And you started your company based on
the knowledge and experience that you
garnered in your previous.

So now you are starting from zero.
Because now the experience that they
want is the experience of the firm,
not of the individuals in the firm.
So now you are starting -- you have
this -- you have a strike against you.

Then the next thing the

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procurement person said, "Well, you know what, talk to the prime." The prime doesn't want to talk to no one. People only do business with people they know. And so what tends to happen is that people in the company, spawn f companies, and then they deal with those companies. So people like us, no opportunities.

So the goal is almost set right off the bat. It's self-defeating. Question is, if you are going to do discretionary, you need to make it such that small, truly small businesses can compete. You can't be piggybacking, "Oh, talk to the prime. Talk to the prime."

No prime wants to talk to me. I've sent a bazillion meet and greet. No one wants a -- I'm taking businesses for my people who I know. So if your goal -- and then again, to even bolster the situation, if you look at your comptroller's report,

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M/WBEs get -- what -- one percent or less than one percent of the entire spending when New York City is a minority/majority? This thing is upside down.

So all I'm saying, if we are going to approach this, Let's make sure that we are doing the intention; the intention is to facilitate and foster the growth of businesses.

Thank you very much.

THE CLERK: Thank you.

Does anyone else wish to testify regarding 3-03 changes?

MS. BECKLES: Can I say one -- I missed one thing. Or are you done?

THE CLERK: At the end.

For item number four, which is today's final item, the PPB has proposed to amend Chapter 2 of Title 9 of the Rules of the City of New York to increase the maximum allowance for M/WBE Noncompetitive Small Purchases up to \$500,000 and allow it to be used

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for construction.

To begin testimony, Neme Nnolim --

MR. NNOLIM: No, I wasn't going to testify.

THE CLERK: Thank you. Lisa Derrick?

MS. DERRICK: Yes. Good afternoon. My name is Lisa Derrick, and I'm here to provide a statement on behalf of the New York State Assemblymember Rodneyse Bichotte, the New York State Assembly Chair of Subcommittee on the Oversight of Minority and Women-Owned Business Enterprises and her statement follows:

"My name is Assemblymember Rodneyse Bichotte, Chair of the Subcommittee on the Oversight of Minority and Woman-Owned Business Enterprises. And I would like to open by acknowledging the great progress being made with the New York City M/WBE program.

The purpose of the M/WBE program

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is to promote a more leveled playing field, giving more opportunities to minority and woman-owned businesses to partake in City contracts. A successful M/WBE program that offers and awards contract opportunity results in a more economically vibrant and diverse community where M/WBEs are able to employ people and establish wealth within the community, as well as provide options to government agencies.

We are here today to discuss changes to the Procurement Policy Board Rules to bring it into alignment with the recent changes and enacted by the State of New York to the New York City Charter.

I was very excited to have sponsored legislation, A8407, chaptered into state law that increases the discretionary threshold to from \$150,000.00 to \$500,000.00. City agencies would have more

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flexibility to procure contracts of goods and services from M/WBEs without entering into a formal competitive bidding process.

Removing such a cumbersome process when dealing with smaller contracts gives agencies added flexibility to work with an increased amount of qualified M/WBEs. Results from a similar change in 2017, where the threshold was increased from \$20,000.00 to \$150,000.00, proves this to be an effective method. The City yielded 840 contracts of over 61.3 million dollars."

This legislation also -- I'm speaking on another point now from earlier. This legislation also allows price preference of ten percent to be offered to M/WBEs for awards based on best value. This process helps to benefit M/WBEs. For example, when there's a challenge with equivalent access to capital, often leaving

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M/WBEs at a disadvantage when competing for bids.

From the progress that New York City has made with the M/WBE program, we see what can be done when we remove barriers and give real opportunities to M/WBEs. We develop economic inclusion, economic equity and diversity. New York City should continue their quest to improve the M/WBE program and change the trajectory of how contracts are awarded.

I congratulate Mayor Bill de Blasio, Deputy Mayor Phil Thompson, Senior Advisor Jonnel Doris and SBS Commissioner Gregg Bishop on a job well done, and I look forward to continuing my work with them.

I thank you for hearing my testimony. I request that you approve the proposal before you today. Thank you.

THE CLERK: Thank you.

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Ravi Shenoy.

MR. SHENOY: I already spoke.

THE CLERK: Thank you.

Colleen Molter.

MS. MOLTER: I'm not testifying.
I'm in support.

THE CLERK: Does anyone else wish
to testify on today's agenda?

MR. BRYANT: Again, my name is
Seth Bryant. I'm a managing partner
of Bryant Rabbino, LLP; a minority
certified business in New York City.
I'm also on the Mayor's M/WBE Advisory
Council.

I do a lot of work with M/WBEs on
both the State and City level. And
again, I think the proposal is an
important one to harmonize what the
State has done; as it was just
testified to by Lisa Derrick on behalf
of Assemblymember Rodneyse Bichotte.

But this should harmonize the
discretionary purchase threshold
between the City and State run M/WBE.

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As was stated, there was a change on the State level that it went from 20,000, I think, to 150. And that was well-absorbed.

These discretionary purchase programs create additional opportunities for smaller businesses. It does cut across bureaucratic kind of nightmare the M/WBEs and New York City agencies face when trying to let contracts for values that are meaningful to small businesses, but are super consequential for New York City.

It will create a pool of -- a pool of opportunities for small M/WBE firms. Those that haven't had a chance to participate fully in the City's economic prosperity over decades because of issues that we all well-understand.

So I'm strongly in support of increasing the discretionary threshold. I think it will be a very

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good benefit for M/WBEs and the City's procurement policy overall.

Thank you.

THE CLERK: Thank you.

MS. HARRIS: Hi. Julie Harris again. I just wanted to add one more point to my testimony based on something I heard.

One of the things that, I guess, the gentleman from ACEC made a comment, to reiterate, that it's qualifications-based. And looking at the results of the projects may decrease in some of the qualifications or the level of work provided to the project if M/WBEs are given a chance to compete.

And I just wanted to put that out there. I think that's just ridiculous. The young man who went before me made the comment that, you know, the subcontracting thing does not work for us.

Most of the firms that I've worked

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with in my coalition have worked for -- they've worked for all the major companies. They've managed big multi-hundred-million-dollar projects as they were employees. But as soon as they crossed the line and started their business, all of a sudden, the same people are looking at them like they don't have the skills to do the work. Though, they got paid to do the work for folks.

So I just wanted to make sure that that's one of the things that's on the table that's key and critical and important. I don't want it to be said or have that conversation; that if they use M/WBEs, somehow the quality goes down.

The numbers state, especially for Black engineers, architects and engineering firms, we don't get any work. We are terrible. And we need to make sure that we are able to bring up that next generation of Black

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architects and engineers.

Thank you.

THE CLERK: Does anyone else wish to testify today?

MR. DAYARAMANI: One more. I'd like to echo what the lady said earlier about being a sub-consultant and really being given not the best jobs.

We've helped teams win jobs with very qualified people that we've had to keep on our payroll. And then upon being awarded the job, we get the lowest positions. This is completely unacceptable. And it's a big cost to us.

Because we are trying to maintain a professional staff so that we can go and place them on jobs as a sub-consultant. And as soon as these jobs are won, the positions are taken away from us. But we are not told until it's time, so we are keeping people on the bench or charging less

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for them than we can.

Basically, losing our profit in the hopes that this will materialize into something and it just doesn't happen. So that's a big deal. We are not getting the best work. And then when we do help the team win, we are left with scraps again. That's not acceptable. I mean, it's just a tough way to do business.

I've got thirty years in the business. I've got a lot of experience. And I have a lot of people who have come to work for me because of who I am and the relationship I've developed.

I can't, if I'm being pushed at every corner to not make money and to not be successful. The primes are not helping me to be successful. They're not helping me with my twenty percent to be an active participant performing commercially useful functions. So that to me is a big deal.

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Thank you.

THE CLERK: Thank you.

Does anyone else wish to testify today?

MR. CHYNOWETH: So I lied earlier when I said I didn't want to testify. But hearing all this, I want to take a minute. Peter Chynoweth. I'm a Senior VP with a company called CMA. We're an IT consulting firm.

We are one of those evil companies that is a larger than ten million dollars. But we are a New York State and New York City certified woman-owned business, and we strongly support this. And I'll tell you why.

We have had the privilege of being both a prime and a sub for many firms. Not only because we are a larger firm, so companies come to us and say, "Hey, we need your help. We think you can deliver for us." We're also looking for smaller firms to help when we have to meet the M/WBE regulations.

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Without boosting this to 500,000, or frankly, more down the road, these companies can't grow and we need them to grow. 150 a shot, I mean, that's kind of nothing. You really need bigger numbers so that they can grow, build critical mass. They can learn. They can create their own methodologies and their own approaches to things.

You are not just checking off a box, they're actually adding value to the project that you are on. So we strongly support this. Both from a prime and from a M/WBE firm.

THE CLERK: Thank you.

Does anyone else wish -- thank you. Could you hand me your sheet?

MS. HIGGINS: Yes.

THE CLERK: Thank you.

MS. HIGGINS: So good afternoon, everyone. My name is Sharon Higgins. I'm the Project Director for the Minority Business Center, MBDA

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operated by SoBRO. And I just wanted to record my presence in the room and to echo my support for these proposals. I think it's a good step in the right direction. Congratulations.

THE CLERK: Does anyone wish to testify?

MS. ARBOLEDA: Hi. Good afternoon. My name is Denise Arboleda. I'm with the Compulink Technologies.

I just wanted to testify that it is a great idea that the City is going to move from 150 to 500. Excuse me. However, you need to be aware that the CDW contract and the SHI contract is not helping the M/WBE participation, and I feel that the City should put out an M/WBE prime contract for a large M/WBE to be able to help smaller M/WBE, rather.

You are forcing a lot of M/WBEs to hold many insurances and policy that

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they cannot afford. That drives them to go out of business. They can't do payroll. They cannot meet many, many challenges that they have every day. I feel the City should recognize the M/WBE community, of all the struggle they go through. Not just -- I understand the increase and I appreciate it. But there's something else that you have to do as a City.

I also would like to recognize that the M/WBE community and the small businesses are the largest payees in tax dollar in New York City. A small business like Compulink pays more than a million dollars in taxes to the State and the City. We should have a voice. We should be recognized as City business owners to help to develop opportunity for the City. Not necessarily, you know, cut our hand, basically. And we feel that way.

The Mayor has awarded the contract that locks everybody out. And we have

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to be subjected to these large primes.
I don't agree with it. Simple as
that. A lot of us, a lot of M/WBE
doesn't agree with it.

So unless you do something, you
are going to drive businesses to move
out of New York City. And it's really
a fundamental problem for many, many
small businesses. Which is really the
root of all our problems. I'd like
you to note that.

Because the -- the City needs to
understand that they're looking to
increase it, but they don't realize
that you've already given the majority
of this business to other primes. So
you have to open the doors
differently, is what I'm trying to
say.

Okay. Thank you.

THE CLERK: Thank you. Does
anyone wish to testify?

MS. SCARLETT: Just going to
augment my testimony and give you guys

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real numbers.

So in order for you to be a viable engineering firm, consulting firm, we are talking about staff -- a technical staff of five. Plus a back of the house of probably about two or three. That operating cost, just on payroll, is approximately just over \$650,000.00 a year.

We are not talking rent yet. Rent of a decent size, probably about a 1,200 square foot, you know, 2,000 square foot at what, \$4.00 a square foot per month? You get where the numbers are. So taking a loan that you can't service because you're getting scraps and the City is vested in, you know -- they have all these charters and all these nice things that, you know, they're for minority growth and for women growth and all these things, but you -- I think what you are not seeing is the cost implications. Which actually causes a

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lot of the businesses who don't have the fortitude to win in three years, they're out of it.

You know, you are talking cost in between payroll and written -- operating cost approximated 800,000, a million dollars a year. With salaries alone being \$600,000.00. That's what we are dealing with. And then when we are at the mercies of a prime, "Go talk to the prime." I mean, on LaGuardia, "Talk to the prime." Yeah, I'm still waiting. On Penn Station, "Yeah, go talk to the prime." Still waiting. Still waiting. Still waiting. Still waiting.

What are we getting? Go inspect boilers and inspect steam traps. That's what we are getting. You know, for people who design, I don't know, five-story buildings on this, we are getting steam trap testing? That's kind of where we are really gating minority and women business to steam

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trap testing.

After we spent so many years --
invest so much time and money between
college and -- and time spent in
industry for over ten years, fifteen
years sometimes. Steam trap testing?
If you are serious, you have to look
at the implications. Put a dot.

What I do to make things make
sense to me, I assign numbers. Maybe
it's because I'm an engineer. I
assign numbers. When I look at the
data, it starts making loads of sense.
600,000 a year just for salaries.
Then another \$4.00 a square foot for
2,000 square foot, do the math and you
see why it makes sense to make this
thing realistic.

All right. Thank you very much.

THE CLERK: Does anyone else wish
to testify?

MS. AIKEN: Good afternoon,
everyone. My name is Penda Aiken.
I'm the owner of Penda Aiken,

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Incorporated. I just got in town last night, so I didn't come today prepared with a written statement. I just started putting some notes on paper. So if I'm allowed to speak, I'd like to talk about why I am in favor of the proposals that have been mentioned today.

My company, Penda Aiken, Inc., I've been in business for thirty years. We've provided staff augmentation services primarily to New York State agencies. And we have, as prime, hundreds of millions of dollars in staffing contracts through the years.

However, regarding New York City contracts, we've gotten less than one percent. And the only business opportunity that we did get through a City agency was New York City School Construction Authority. And that's because they use a lot of the New York State requirements in regards to the

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thirty percent goals.

With the City, whenever we had an opportunity to bid, and that's generally on the very large staffing contracts with the Fire Department or Department of Education, the Law Department, a lot of those bids are roughly between thirty and fifty million dollars.

We are either excluded, although we can certainly do the work, because of the lowest bid. And in many instances, those low bids are below twenty percent which doesn't even cover one's cost to meet the cost of overhead.

And then in instances where we have had the opportunity, it's either because we are a sub and those markups that are being presented to us are very low. So we still can't meet our basic cost of even breaking even. And what winds up happening is a lot of the smaller businesses that are

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startups, they agree to it and wind up losing money.

The other part of it is the purchase orders. Previously, the purchase orders that we were receiving from some of the City agencies were in that 20,000-dollar pocket. And when you are providing staff, you are reaching that \$20,000.00 in no time.

Subsequently, it becomes a matter of operating on no purchase order because there -- the need still exists to provide the personnel to the City agencies. And we wind up getting in trouble because the purchase order has expired, so either you don't get paid or it takes you an extremely long time to wait while the purchase orders are put in place.

I think that raising the threshold to five hundred million would certainly give companies like mine an opportunity to provide personnel for a period of time where they can complete

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the work.

And so therefore, I'm very much in favor of the proposals that have been presented today. And I agree with what everyone else has said in regards to as small businesses, M/WBE firms specifically, we certainly have the capability.

And the way a lot of the current proposals or RFPs are written, we are excluded because of certain qualifications that they put in, that subsequently prevent us from even responding. And then the only opportunity subsequently becomes as a subcontractor where those markups and costs are so high, we don't have an opportunity to really run a profitable business.

Thank you.

THE CLERK: Thank you. I believe you wish to speak?

MS. HEKMATY: Sara with RK Software. I just wanted to make one

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observation that the two gentlemen that were representing the larger firms were most intimidated by that five percent or the evaluation factor because of our influence and evaluation factors. And that will really make a difference for us. And that's why I think they were calling that out the most.

For example, when in the evaluation factors you see any percent assigned to the M/WBE plan, that's when I can really actually get through to the contractors and/or the primes and say, "Okay. Do you want to talk?" "Yes. We will be on your plan," because we can help them get those ten points.

So I actually see that as a good thing that they were calling that out. It actually makes me hopeful that if you do pass this, then it will make a difference.

Okay. Thanks.

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THE CLERK: Thank you. Does anyone else wish to testify? Want to make a statement?

MS. FLORES: I just want to say, my name is Lisa Flores. I'm Deputy Comptroller of Contracts and Procurement. I'm here with Sergio Paneque. We are both representatives on behalf of Comptroller Scott Stringer on the PPB board.

I just want to speak for both of us and on behalf of the Comptroller. I really appreciate all of the individuals who have come out today to not only share their experiences and their feedback, whether they support or oppose, but really valuable information, that we look forward to working closely with the administration on the implementation of these changes.

Thank you.

THE CLERK: Thank you.
Does anyone else wish to testify

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today?

(No response.)

THE CLERK: If no one else wishes to speak, that concludes today's hearing. We ask the reporter, make any written submissions part of the final record of the proceeding.

The hearing is now closed. Thank you, everyone.

(TIME NOTED: 1:22 p.m.)

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STATE OF NEW YORK)

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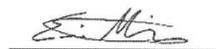
COUNTY OF NASSAU)

I, Elbia Merino, a Notary Public within
and for the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter, and that the within
transcript is a true record of such proceedings
to the best of my ability.

I further certify that I am not related
to any of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 12th day of November, 2019.


Elbia Merino

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